

1 [Counsel listed on signature page]

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

JUN 28 2000

JAMES R. LEBLANC, CLERK
DEPUTY
SPOKANE, WASHINGTON

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

7 NED CHARLES LUMPKIN, CAROLE
8 BENSHAW, SUZIE FOX, AMY
9 ROBINSON, ANN TABASINSKE,
10 CAROLYN THOMAS, SHANNON
11 STENBERG, ANN MARIE BRIGHT,
12 GARY M. WEDERSPAHN, KAREN L.
13 RAY, PATRICIA JEAN ZUMWALT,
14 ANITA WETMORE, PETE WETMORE,
15 BERTHA CLARK, CECIL CLARK, GAIL
16 DRAKE, and KAREN SCHNEIDER,
17 individually and on behalf of all others
18 similarly situated,

Plaintiffs,

v.

15 E.I. DUPONT DE NEMOURS & CO., a
16 Delaware corporation, GENERAL
17 ELECTRIC CO., a New York corporation,
18 UNC NUCLEAR INDUSTRIES, INC., a
19 Delaware corporation, ATLANTIC
20 RICHFIELD CO., a Delaware corporation,
21 ATLANTIC RICHFIELD HANFORD CO.,
22 a Delaware corporation, ROCKWELL
23 INTERNATIONAL CORP., a Delaware
24 corporation, FLUOR DANIEL HANFORD,
25 a Washington corporation, BATTELLE
26 MEMORIAL INSTITUTE, a non-profit
27 organization, PACIFIC NORTHWEST
28 LABORATORY, a Washington
corporation, CH2M HILL HANFORD
GROUP, INC., a Delaware corporation,
WESTINGHOUSE HANFORD
COMPANY, a Delaware corporation,
LOCKHEED MARTIN, a Maryland
corporation, and HANFORD
ENVIRONMENTAL HEALTH
FOUNDATION, INC., a non-profit
organization,

Defendants.

NO.

CT-00-5052-EFS

CLASS ACTION
COMPLAINT FOR
INJUNCTIVE RELIEF AND
DAMAGES AND
COMPLAINT FOR
INDIVIDUAL CLAIMS

JURY TRIAL DEMANDED.

1 The above Plaintiffs, through undersigned counsel, file this Complaint and, based on
2 personal knowledge or information and belief, state as follows:

3 4 I. INTRODUCTION

5 1.1 Defendants irradiated thousands of unsuspecting men, women, and children
6 without their consent through their activities at the Hanford Nuclear Reservation.
7 Defendants exposed the public and the surrounding environment to radioactive and other
8 hazardous materials. Defendants violated peoples' rights and used individuals to serve as
9 receptacles for Defendants' radioactive and hazardous wastes. Such conduct is unmistakably
10 barbarous and immoral, and was in direct contravention of the Defendants' legal duty to
11 protect and safeguard the health and welfare of the class of Plaintiffs bringing this
12 Complaint.

13 1.2 The Defendants did not simply irradiate and expose the Plaintiffs to radioactive
14 hazardous materials on isolated hazardous occasions. Instead, they did so systematically and
15 daily without informing Plaintiffs of the potential dangers, which would have permitted the
16 Plaintiffs and other class members the opportunity to protect themselves and their families
17 from harm. According to the Defendants, warning the public would have jeopardized the
18 production of plutonium at the Hanford Nuclear Reservation ("Hanford"), or otherwise
19 turned the local population against the operation of Hanford. Thus in their rush to produce
20 plutonium, to keep laborers, the Defendants kept quiet about the worker and public health
21 risks concerning production no matter the cost.

22 1.3 The Defendants also deceived the public into a false sense of security.
23 Whenever anyone questioned the Defendants about human health and safety of those living
24 in the geographic vicinity of or working at Hanford, they were assured by the Defendants
25 that they had nothing to fear because Hanford was safe and there was no risk of adverse
26 health consequences.

27 1.4 The Defendants are present and former operators of Hanford which produced
28 weapons-grade plutonium used by the United States in its nuclear weapons programs, as well

1 as the radioactive and other hazardous by-products of production for nearly 45 years.

2 1.5 Despite the Defendants' knowledge of the danger posed by radiation exposure
3 and the duty they had to warn the public of any hazardous releases, Defendants failed to
4 warn the public of any releases. Indeed, when asked if any radioactive material had ever
5 been released, Defendants lied, responding that not one atom had ever escaped from
6 Hanford.

7 1.6 Plaintiffs have been injured as a direct result of the Defendants' acts and
8 omissions and seek declaratory, injunctive, and compensatory relief including, but not
9 limited to, a public apology by the Defendants for intentionally irradiating the public and
10 exposing them to hazardous materials without their consent; an acknowledgment that
11 Defendants' intentional and reckless acts were contrary to the fundamental principles
12 identified at Nuremberg; an admission of responsibility for any harm which might be
13 associated with an unlawful release from the Hanford facility; full disclosure of Defendants'
14 activities at the Hanford facility; medical monitoring, care, and treatment; and compensatory
15 and punitive damages to the extent permitted by law.

16 17 **II. FEDERAL JURISDICTION AND VENUE**

18 2.1 Plaintiffs, on behalf of themselves and as a class described below, state that
19 they are former employees of Defendants; frequenters and invitees, who transacted business
20 regularly or for extended periods of time on the Hanford Nuclear Reservation; the families of
21 Defendants' employees; residents of Richland, Washington and/or Camp Hanford; and
22 residents of Washington, Idaho, and Oregon who lived downriver or downwind from
23 Hanford.

24 2.2 Defendants are government contractors that operated the Hanford facility
25 including:

26 2.2.1 E.I. DuPont de Nemours and Company ("DuPont"), a Delaware
27 corporation with its principal place of business in Wilmington, Delaware, which served as
28 the operator of Hanford from 1942-1946. During the same time, DuPont was responsible for

1 all health and safety services of Richland, Washington and the public's welfare because
2 Richland was a "company town."

3 2.2.2 General Electric Company ("GE"), a New York Corporation with
4 its principal place of business in Fairfield, Connecticut, which, either itself or through its
5 agents, served as the Hanford operator from 1946-1967. From 1946 until 1959, GE was
6 responsible for all health and safety services of Richland, Washington and the public's
7 welfare because Richland was a "company town."

8 2.2.3 UNC Nuclear Industries, Inc. ("UNC"), a Delaware corporation
9 with its principal place of business in Annapolis, Maryland, is the successor to Douglas
10 United Nuclear, Inc. which, either itself or through its agents, served as the principal
11 operator of the reactors and fuel fabrication plants from 1967 until 1987. UNC has four
12 parent companies: GE Engine Services UNC Holdings, Inc. II, GE Engine Services UNC
13 Holdings, Inc. I, GE Engine Services - Miami, Inc., and General Electric Company.

14 2.2.4 Atlantic Richfield Company ("ARCO"), a Delaware corporation
15 with its principal place of business in Los Angeles, California, which, either itself or through
16 its agents such as Atlantic Richfield-Hanford Company, served as an operator of Hanford
17 from 1967-1977. Atlantic Richfield-Hanford Company ("ARHCO") is a Delaware
18 corporation with its principal place of business currently unknown, and is wholly owned by
19 ARCO. Atlantic Richfield operated Hanford's plutonium processing and separations plants,
20 and supervised the operation and maintenance of Hanford's underground waste storage tanks.

21 2.2.5 Rockwell International Corporation ("Rockwell"), a Delaware
22 corporation with its principal place of business in El Segundo, California, which, either itself
23 or through its agents, served as an operator of Hanford from 1977-1987. Rockwell operated
24 Hanford's plutonium processing and separations plants, and supervised the operation and
25 maintenance of Hanford's underground waste storage tanks. Rockwell has been renamed
26 Boeing, N.A., Inc., and has one parent corporation, The Boeing Company.

27 2.2.6 Isochem, Inc. ("Isochem"), a Washington corporation with its
28 principal place of business in Seattle, Washington, which, either itself or through its agents,

1 served as an operator of Hanford from 1965-1967. Isochem operated Hanford's plutonium
2 processing and separations plants, and supervised the operation and maintenance of
3 Hanford's underground waste storage tanks. Isochem was a joint venture of U.S. Rubber
4 Corp. and Martin-Marietta, Corp. Martin-Marietta is now known as Lockheed Martin Corp.,
5 a Maryland corporation with its principal place of business in Bethesda, Maryland.

6 2.2.7 Battelle Pacific Northwest National Laboratory ("PNNL" or
7 "Battelle") an Ohio non-profit corporation with its principal place of business in Columbus,
8 Ohio, which, either itself or through its agents, served as a research and development
9 contractor at Hanford from 1965 to the present.

10 2.2.8 The Hanford Environmental Health Foundation, Inc. ("HEHF"),
11 a Washington non-profit corporation with its principal place of business in Richland,
12 Washington, which, either itself or through its agents, served as a provider of occupational
13 health and other activities at Hanford from 1965 to the present.

14 2.2.9 Westinghouse Hanford Company ("WHC") a Delaware
15 corporation with its principal place of business currently unknown and which, either itself or
16 through its agents, served as the managing contractor of Hanford from 1987-1996. WHC
17 operated Hanford's reactors, plutonium processing and separations plants, and supervised the
18 operation and maintenance of Hanford's underground waste storage tanks. WHC is now
19 known as Westinghouse Government Services Company LLC and is a subsidiary of
20 Morrison Knudsen Corp.

21 2.2.10 Fluor Daniel Hanford, Inc., ("FDH"), a Washington corporation
22 and a subsidiary of Fluor Damniel, Inc., a Delaware corporation with its principal place of
23 business in Aliso Viejo, California, which, either itself or through its agents, served as an
24 operator of Hanford from 1996 to the present. FDH is in charge of managing the work under
25 the Project Hanford Management Contract.

26 2.2.11 CH2M Hill Hanford Group, Inc. ("CHG"), a Delaware
27 corporation with its principal place of business currently unknown. CHG is a subsidiary of
28 CH2M Hill Companies, Ltd., an Oregon corporation with its principal place of business in

1 Greenwood Village, Colorado. CHG is currently responsible for the operation and
2 maintenance of Hanford's underground waste storage tanks.

3 2.3 Each and every defendant has sufficient contacts or ties to the state of
4 Washington so as to subject it to the jurisdiction of this Court.

5 2.4 The Court has jurisdiction pursuant to 28 U.S.C. § 1331 inasmuch as Plaintiffs
6 have alleged liability arising under Federal law, specifically the Constitution of the United
7 States, 42 U.S.C. § 1983, The Nuremberg Code and the laws of humanity, Atomic Energy
8 Act, 42 U.S.C. § 2011 *et seq.*, and the Price-Anderson Act, 42 U.S.C. § 2210 *et seq.*
9 Plaintiffs also seek declaratory relief pursuant to 28 U.S.C. §§ 2201 and 2202.

10 2.5 The Court has jurisdiction over the non-federal claims arising under the
11 Constitution of the State of Washington, applicable state law based on the doctrines of
12 ancillary and pendent jurisdiction.

13 2.6 Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(a) and
14 42 U.S.C. § 9613(b) because the claims arose this Judicial District, and 42 U.S.C. §
15 2210(n)(2) inasmuch as the nuclear incidents and/or extraordinary nuclear occurrences
16 giving rise to Plaintiffs' claims took place in this Judicial District.

17 18 **III. CLASS ACTION ALLEGATIONS**

19 3.1 Plaintiffs bring this class action pursuant to Fed. R. Civ. P. 23, specifically
20 under 23(a); 23(b)(1)(A); 23(b)(2); and 23(b)(3).

21 3.2 The Class should be divided into the following subclasses:

22 3.2.1 Subclass I: Persons who lived in Richland, Washington, at Camp
23 Hanford, or otherwise resided within a geographic area under the control of Defendants from
24 1944-1959.

25 3.2.2 Subclass II: Families, invitees, frequenters or persons who
26 presently have a disease caused by Defendants' conduct and who are not members of
27 Subclass I ("Personal Injury Subclass").

28 3.2.3 Subclass III: Families, invitees, frequenters or persons who are

1 not members of Subclass I or II, and who are at risk of contracting disease caused by
2 Defendants' actions at Hanford and thus require medical monitoring ("Medical Monitoring
3 Subclass").

4 3.3 Plaintiffs believe that because of the number of potential class members that
5 joinder of all members is impracticable. While the exact number of class members is
6 unknown to Plaintiffs at this time, Plaintiffs believe that there are at least ten thousand
7 members. In fact, the Agency for Toxic Substances and Disease Registry estimates that
8 there are 14,000 persons who would qualify under Subclass III.

9 3.4 Among the questions of law and fact common to the members of Subclass I:

10 3.4.1 Whether Defendants are "state actors" and/or "federal actors" for
11 purposes of § 1983 claims or *Bivens* actions.

12 3.4.2 Whether Defendants actions deprived class members of their
13 constitutional rights under the United States Constitution and/or the Constitution for the State
14 of Washington.

15 3.4.3 Whether the Washington Constitution provides greater
16 protections than the United States Constitution and is analyzed independently from the
17 United States Constitution under *Gunwall*.

18 3.4.4 Whether the Defendants are strictly liable for the defective and
19 unreasonably dangerous conditions at Hanford and its safety systems.

20 3.4.5 The causes of the emissions, releases, and leaks of radiation and
21 other hazardous materials and their fiscal impact on the class.

22 3.4.6 Whether any of the Defendants breached their contract with the
23 government.

24 3.4.7 Whether, through its operations, Defendants received a benefit
25 to the detriment of the owners.

26 3.4.8 Whether Defendants's enrichment at the expense of the owners
27 was unjust.

28 3.4.9 The amount of Defendants's unjust enrichment.

1 3.4.10 The foreseeability of emissions, releases, and leaks of radioactive
2 and other hazardous material and the fiscal impact on the class.

3 3.4.11 Whether any of the Defendants failed to warn people of the
4 dangerous conditions at Hanford.

5 3.4.12 What precautions, if any, were taken after the end of World War
6 II in 1945 to deal with the emissions, releases, and leaks of radiation and other hazardous
7 materials.

8 3.4.13 Whether the Defendants are liable under 42 U.S.C. §§
9 2210(n)(2), 2210(o), or 2210(b).

10 3.4.14 Whether a "nuclear incident" giving rise to public liability under
11 the Price-Anderson Act occurred at Hanford.

12 3.4.15 Whether an "Extraordinary Nuclear Occurrence" under the Price-
13 Anderson Act occurred at Hanford.

14 3.4.16 Whether the Defendants violated and are liable under 18 U.S.C.
15 § 1001.

16 3.4.17 Whether any of the Defendants acted intentionally, wilfully,
17 recklessly, or with gross negligence in failing to take precautions to warn class members after
18 the first emissions, releases, and leaks of radiation and other hazardous materials at Hanford.

19 3.4.18 Whether Defendants' misconduct, violations of law, and/or
20 breaches of legal duty caused the injuries alleged by Plaintiffs.

21 3.4.19 Whether members of the class have sustained damage.

22 3.4.20 Whether exposure to radiation and other hazardous materials has
23 increased or may increase class members' risk of contracting serious diseases such as cancer
24 or suffering other severe health consequences.

25 3.4.21 Whether the increased risk makes periodic medical examinations
26 or biological testing reasonably necessary.

27 3.4.22 Whether monitoring and testing procedures exist which can:
28 (1) detect exposure to contamination so that additional steps to minimize exposure may be

1 taken; and (2) make early detection and treatment of serious latent diseases possible and
2 beneficial.

3 3.5 Among the common questions of law and fact common to Subclass II are:

4 3.5.1 Whether the Defendants are strictly liable for the defective and
5 unreasonably dangerous conditions at Hanford and its safety systems.

6 3.5.2 The causes of the emissions, releases, and leaks of radiation and
7 other hazardous materials and their fiscal impact on the class.

8 3.5.3 Whether any of the Defendants breached their contract with the
9 government.

10 3.5.4 Whether, through its operations, Defendants received a benefit
11 to the detriment of the owners.

12 3.5.5 Whether Defendants's enrichment at the expense of the owners
13 was unjust.

14 3.5.6 The amount of Defendants's unjust enrichment.

15 3.5.7 The foreseeability of emissions, releases, and leaks of radioactive
16 and other hazardous material and the fiscal impact on the class.

17 3.5.8 Whether any of the Defendants failed to warn the employees of
18 the dangerous conditions at Hanford.

19 3.5.9 What precautions, if any, were taken after the end of World War
20 II in 1945 to deal with the emissions, releases, and leaks of radiation and other hazardous
21 materials.

22 3.5.10 Whether the Defendants are liable under 42 U.S.C. §§
23 2210(n)(2), 2210(o), or 2210(b).

24 3.5.11 Whether a "nuclear incident" giving rise to public liability under
25 the Price-Anderson Act occurred at Hanford.

26 3.5.12 Whether an "Extraordinary Nuclear Occurrence" under the Price-
27 Anderson Act occurred at Hanford.

28 3.5.13 Whether the Defendants violated and are liable under 18 U.S.C.

1 § 1001.

2 3.5.14 Whether any of the Defendants acted intentionally, wilfully,
3 recklessly, or with gross negligence in failing to take precautions to warn class members after
4 the first emissions, releases, and leaks of radiation and other hazardous materials at Hanford.

5 3.5.15 Whether Defendants' misconduct, violations of law, and/or
6 breaches of legal duty caused the injuries alleged by Plaintiffs.

7 3.5.16 Whether members of the class have sustained damage.

8 3.5.17 Whether Defendants proximately caused radiation and other
9 hazardous materials to be released into the environment where the Plaintiffs could come in
10 contact with them.

11 3.5.18 Whether Plaintiffs have been exposed to radiation and other
12 hazardous materials.

13 3.5.19 Whether Plaintiffs have been diagnosed with a radiogenic
14 disease, including, but not limited to, the diseases identified in Exhibit 1, or were killed
15 because of their exposure to radiation and other hazardous materials.

16 3.5.20 Whether Plaintiffs experienced any pain and suffering because of
17 the diseases caused by radiation and other hazardous materials.

18 3.6 In addition to the common questions of law and fact identified for Subclass II,
19 common questions of law and fact to Subclass III include:

20 3.6.1 Whether class members have been or may be exposed to
21 radiation and other hazardous materials that the Defendants' released.

22 3.6.2 Whether exposure to radiation and other hazardous materials has
23 increased or may increase class members' risk of contracting serious diseases such as cancer
24 or suffering other severe health consequences.

25 3.6.3 Whether the increased risk makes periodic medical examinations
26 or biological testing reasonably necessary.

27 3.6.4 Whether monitoring and testing procedures exist which can:
28 (1) detect exposure to contamination so that additional steps to minimize exposure may be

1 taken; and (2) make early detection and treatment of serious latent diseases possible and
2 beneficial.

3 3.6.5 The amount of money that is necessary to establish a court-
4 supervised fund to pay for the prudent medical and biological monitoring of Subclass III, the
5 Medical-Monitoring Class.

6 3.7 The class representatives are identified below. Each representative Plaintiff is
7 a member of the proposed class or subclass that he or she seeks to represent. The claims
8 alleged by each representative Plaintiff are typical of the class that he or she seeks to
9 represent. The claims of the representative Plaintiffs and the claims of the respective class
10 members arise out of the same course of conduct:

11
12 **3.7.1 Subclass I Representatives:**

13 3.7.1.1 Plaintiff NED CHARLES LUMPKIN is a resident of
14 Seattle, Washington. From 1944-1953, Mr. Lumpkin lived in Richland, Washington.
15 Richland was a "company town" and has been identified as a site where there has been and
16 presently are substantial levels of radioactive and non-radioactive hazardous materials. As a
17 result of Defendants' misconduct related to operations and maintenance at Hanford described
18 in this Complaint, Plaintiff Lumpkin's constitutional rights were violated, and he has
19 suffered from thyroid cancer and associated conditions requiring medical treatment. Plaintiff
20 Lumpkin has also suffered severe physical injury and general pain and suffering, and severe
21 physical and mental pain and suffering, including, but not limited to, his own injuries as well
22 as the emotional pain and suffering.

23 3.7.1.2 Plaintiff ANN TABASINSKE is a resident of Seattle,
24 Washington. From 1945-1963, Ms. Tabasinske lived in Richland, Washington. Richland
25 was a "company town" and has been identified as a site where there has been and presently
26 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
27 Defendants' misconduct related to operations and maintenance at Hanford described in this
28 Complaint, Plaintiff Tabasinske's constitutional rights were violated, and she is at significant

1 risk of suffering disease including thyroid disease, cancer, and associated conditions
2 requiring medical treatment. Plaintiff Tabasinske has also suffered emotional distress
3 because of Defendants' conduct.

4 3.7.1.3 Plaintiff CAROLYN THOMAS is a resident of Lake
5 Zurich, Illinois. From 1949-1953, Ms. Thomas lived in Richland, Washington. Richland was
6 a "company town" and has been identified as a site where there has been and presently are
7 substantial levels of radioactive and non-radioactive hazardous materials. As a result of
8 Defendants' misconduct related to operations and maintenance at Hanford described in this
9 Complaint, Plaintiff Thomas's constitutional rights were violated, she is at significant risk of
10 suffering disease including thyroid disease, cancer, and associated conditions requiring
11 medical treatment, and she has suffered physical injury and general pain and suffering, and
12 severe physical and mental pain and suffering, including, but not limited to, his own injuries
13 as well as the emotional pain and suffering.

14 3.7.1.4 Plaintiff GAIL DRAKE is a resident of Portland, Oregon.
15 From 1953-1956, Ms. Drake lived in Richland, Washington. Richland was a "company
16 town" and has been identified as a site where there has been and presently are substantial
17 levels of radioactive and non-radioactive hazardous materials. As a result of Defendants'
18 misconduct related to operations and maintenance at Hanford described in this Complaint,
19 Plaintiff Drake's constitutional rights were violated, and she has suffered from thyroid cancer
20 and associated conditions requiring medical treatment. Plaintiff Drake also suffered severe
21 physical injury and general pain and suffering, and severe physical and mental pain and
22 suffering, including, but not limited to, his own injuries as well as the emotional pain and
23 suffering.

24
25 **3.7.2 Subclass II Representatives:**

26 3.7.2.1 Plaintiff CAROLE BENSCHAW is a resident of Calabasas,
27 California. During all times relevant to this lawsuit, Ms. Benschaw lived in geographic
28 proximity to Hanford which has been identified as a site where there has been and presently

1 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
2 Defendants' misconduct described in this Complaint, Plaintiff Benshaw has suffered from
3 cancers and associated conditions requiring medical treatment. Plaintiff Benshaw has also
4 suffered severe physical injury and general pain and suffering, and severe physical and
5 mental pain and suffering, including, but not limited to, her own injuries as well as the
6 emotional pain and suffering because of the Defendants' misconduct set forth herein.

7 3.7.2.2 Plaintiff AMY ROBINSON is a resident of Irvine,
8 California. During all times relevant to this lawsuit, Ms. Robinson lived in geographic
9 proximity to Hanford which has been identified as a site where there has been and presently
10 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
11 Defendants' misconduct described in this Complaint, Plaintiff Robinson has suffered from
12 cancers and associated conditions requiring medical treatment. Plaintiff Robinson has also
13 suffered severe physical injury and general pain and suffering, and severe physical and
14 mental pain and suffering, including, but not limited to, her own injuries as well as the
15 emotional pain and suffering because of the Defendants' misconduct set forth herein.

16 3.7.2.3 Plaintiff SUZIE FOX is a resident of Gresham, Oregon.
17 During all times relevant to this lawsuit, Ms. Fox lived in geographic proximity to Hanford
18 which has been identified as a site where there has been and presently are substantial levels
19 of radioactive and non-radioactive hazardous materials. As a result of Defendants'
20 misconduct described in this Complaint, Plaintiff Fox has suffered from cancers and
21 associated conditions requiring medical treatment. Plaintiff Fox has also suffered severe
22 physical injury and general pain and suffering, and severe physical and mental pain and
23 suffering, including, but not limited to, her own injuries as well as the emotional pain and
24 suffering because of the Defendants' misconduct set forth herein.

25 3.7.2.4 Plaintiff ANN MARIE BRIGHT is a resident of King
26 County, Washington. During all times relevant to this lawsuit, Ms. Bright lived in
27 geographic proximity to Hanford which has been identified as a site where there has been
28 and presently are substantial levels of radioactive and non-radioactive hazardous materials.

1 As a result of Defendants' misconduct described in this Complaint, Plaintiff Bright has
2 suffered from thyroid disease and associated conditions requiring medical treatment.
3 Plaintiff Bright has also suffered severe physical injury and general pain and suffering, and
4 severe physical and mental pain and suffering, including, but not limited to, her own injuries
5 as well as the emotional pain and suffering because of the Defendants' misconduct set forth
6 herein.

7 3.7.2.5 Plaintiff GARY M. WEDERSPAHN is a resident of
8 Boulder, Colorado. During all times relevant to this lawsuit, Mr. Wederspahn lived in
9 geographic proximity to Hanford which has been identified as a site where there has been
10 and presently are substantial levels of radioactive and non-radioactive hazardous materials.
11 As a result of Defendants' misconduct described in this Complaint, Plaintiff Wederspahn has
12 suffered from thyroid cancer and associated conditions requiring medical treatment. Plaintiff
13 Wederspahn has also suffered severe physical injury and general pain and suffering, and
14 severe physical and mental pain and suffering, including, but not limited to, his own injuries
15 as well as the emotional pain and suffering because of the Defendants' misconduct set forth
16 herein.

17 3.7.2.6 Plaintiff KAREN L. RAY is a resident of Spokane
18 County, Washington. During all times relevant to this lawsuit, Ms. Ray lived in geographic
19 proximity to Hanford which has been identified as a site where there has been and presently
20 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
21 Defendants' misconduct described in this Complaint, Plaintiff Ray has suffered from thyroid
22 disease and associated conditions requiring medical treatment. Plaintiff Ray has also
23 suffered severe physical injury and general pain and suffering, and severe physical and
24 mental pain and suffering, including, but not limited to, her own injuries as well as the
25 emotional pain and suffering because of the Defendants' misconduct set forth herein.

26 3.7.2.7 Plaintiff PATRICIA JEAN ZUMWALT is a resident of
27 Congress, Arizona. During all times relevant to this lawsuit, Ms. Zumwalt lived in
28 geographic proximity to Hanford which has been identified as a site where there has been

1 and presently are substantial levels of radioactive and non-radioactive hazardous materials.
2 As a result of Defendants' misconduct described in this Complaint, Plaintiff Zumwalt has
3 suffered from cancers and associated conditions requiring medical treatment. Plaintiff
4 Zumwalt has also suffered severe physical injury and general pain and suffering, and severe
5 physical and mental pain and suffering, including, but not limited to, her own injuries as well
6 as the emotional pain and suffering because of the Defendants' misconduct set forth herein.

7 3.7.2.8 Plaintiff ANITA WETMORE is a resident of Glenwood,
8 Washington. During all times relevant to this lawsuit, Ms. Wetmore lived in geographic
9 proximity to Hanford which has been identified as a site where there has been and presently
10 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
11 Defendants' misconduct described in this Complaint, Plaintiff Wetmore has suffered from
12 cancers and associated conditions requiring medical treatment. Plaintiff Wetmore has also
13 suffered severe physical injury and general pain and suffering, and severe physical and
14 mental pain and suffering, including, but not limited to, her own injuries as well as the
15 emotional pain and suffering because of the Defendants' misconduct set forth herein.

16 3.7.2.9 Plaintiff PETE WETMORE is a resident of Glenwood,
17 Washington. During all times relevant to this lawsuit, Mr. Wetmore lived in geographic
18 proximity to Hanford which has been identified as a site where there has been and presently
19 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
20 Defendants' misconduct described in this Complaint, Plaintiff Wetmore has suffered from
21 cancers and associated conditions requiring medical treatment. Plaintiff Wetmore has also
22 suffered severe physical injury and general pain and suffering, and severe physical and
23 mental pain and suffering, including, but not limited to, his own injuries as well as the
24 emotional pain and suffering because of the Defendants' misconduct set forth herein.

25 3.7.2.10 Plaintiff BERTHA CLARK is a resident of Hemet,
26 California. During all times relevant to this lawsuit, Ms. Clark lived in geographic proximity
27 to Hanford which has been identified as a site where there has been and presently are
28 substantial levels of radioactive and non-radioactive hazardous materials. As a result of

1 Defendants' misconduct described in this Complaint, Plaintiff Clark has suffered from
2 cancers and associated conditions requiring medical treatment. Plaintiff Clark has also
3 suffered severe physical injury and general pain and suffering, and severe physical and
4 mental pain and suffering, including, but not limited to, her own injuries as well as the
5 emotional pain and suffering because of the Defendants' misconduct set forth herein.

6 3.7.2.11 Plaintiff CECIL CLARK (deceased) was a resident of
7 Hemet, California. During all times relevant to this lawsuit, Ms. Clark lived in geographic
8 proximity to Hanford which has been identified as a site where there has been and presently
9 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
10 Defendants' misconduct described in this Complaint, Plaintiff Clark suffered from cancers
11 and associated conditions requiring medical treatment. Plaintiff Clark also suffered severe
12 physical injury and general pain and suffering, and severe physical and mental pain and
13 suffering, including, but not limited to, his own injuries as well as the emotional pain and
14 suffering because of the Defendants' misconduct set forth herein.

15 3.7.2.12 Plaintiff KAREN SCHNEIDER is a resident of Woodland
16 Hills, California. During all times relevant to this lawsuit, Ms. Schneider lived in geographic
17 proximity to Hanford which has been identified as a site where there has been and presently
18 are substantial levels of radioactive and non-radioactive hazardous materials. As a result of
19 Defendants' misconduct described in this Complaint, Plaintiff Schneider has suffered from
20 cancers and associated conditions requiring medical treatment. Plaintiff Schneider has also
21 suffered severe physical injury and general pain and suffering, and severe physical and
22 mental pain and suffering, including, but not limited to, her own injuries as well as the
23 emotional pain and suffering because of the Defendants' misconduct set forth herein.

24
25 **3.7.3 Subclass III Representatives:**

26 3.7.3.1 Plaintiff SHANNON STENBERG is a resident of Ormond
27 Beach, Florida. During all times relevant to this lawsuit, Ms. Stenberg lived in geographic
28 proximity to Hanford which has been identified as a site where there has been and presently

1 are substantial levels of radioactive and non-radioactive hazardous substances. As a result of
2 Defendants' misconduct in releasing radioactive and other hazardous materials at Hanford,
3 Plaintiff Stenberg is at significant risk of suffering disease including thyroid disease, cancer,
4 and associated conditions requiring medical treatment. Plaintiff Stenberg has also suffered
5 emotional distress because of Defendants' conduct.

6 3.8 A class under 23(b)(1)(A) is appropriate because the prosecution of separate
7 actions by individual members of the class would create a risk of inconsistent or varying
8 adjudications with respect to individual members of the class which would establish
9 incompatible standards of conduct for the party opposing the class because, in addition to
10 monetary damages, Plaintiffs are seeking to establish the rights and duties of Defendants
11 with respect to various federal, state, and local statutes and regulations concerning the
12 regulation of radioactive and/or other hazardous materials and constituents.

13 3.9 A class under 23(b)(2) is appropriate because the Defendants have acted, and
14 refused to act, uniformly with respect to the Medical Monitoring Class, thereby making
15 appropriate final injunctive relief with respect to this class as a whole.

16 3.10 A class under 23(b)(2) is appropriate because the Defendants have acted, and
17 refused to act, uniformly with respect to the Class, thereby making appropriate final
18 injunctive relief with respect to this class as a whole. This is demonstrated by the continued
19 emissions, releases, and leaks of radioactive and other hazardous materials and constituents
20 thereby exposing employees, frequenters, invitees, and their families, and the surrounding
21 environment and properties to hazards for which injunctive or other equitable relief is
22 appropriate.

23 3.11 A class under 23(b)(3) is appropriate because the questions of law and fact
24 common to the members of each class and subclass predominate over any questions affecting
25 only individual members.

26 3.12 A class under 23(b)(3) is appropriate because the questions a class action is
27 superior to other available remedies for the fair and efficient adjudication of the claims
28 presented in this complaint, and would prevent the undue financial, administrative, and

1 procedural burdens on the parties and on the court that hundreds of individual litigants would
2 otherwise impose.

3 4 **IV. FACTUAL ALLEGATIONS COMMON TO ALL CLASS MEMBERS**

5 4.1 Defendants have been knowingly and systematically irradiating and poisoning
6 people living downwind and downriver from Hanford since the day the first reactor at
7 Hanford came on-line, September 26, 1944. And since that first day, Defendants have failed
8 to warn the public of the dangers they created by irradiating them and intentionally
9 concealed from the harmed public the existence of the hazardous releases and the pathways
10 of exposure.

11 4.2 Defendants' disregard for the lives and the fundamental rights of others "shocks
12 the conscience."

13 4.3 Radiation is one of the deadliest substances in the world. There is no
14 completely safe dose. Any exposure carries a certain risk.

15 4.4 The Hanford Nuclear Reservation was created by the United States in 1943 for
16 the purpose of producing plutonium and other materials for nuclear weapons. At all times
17 relevant, at least one Defendant contracted with the United States to operate Hanford. From
18 1944 to the early 1970s and up to the present, radioactive and other hazardous materials were
19 released, emitted, or negligently permitted to leak into the air, surface and ground waters,
20 and soil. These radioactive and hazardous materials include, but are not limited to,
21 radionuclides (radioactive elements) such as plutonium-239/240, ruthenium-103,-106, tritium
22 (H-3), uranium-233,-235, iodine-131,-133, phosphorus-32, neptunium-239, cobalt-60, zinc-
23 65, arsenic-76, manganese-56, copper-64, sodium-24, chromium-51, cesium-137, strontium-
24 90 and krypton-85, all of which were produced by the processes Defendants' conducted at
25 Hanford. These materials are extremely hazardous carcinogens and are known to cause the
26 diseases and illnesses identified in Exhibit 1 and others. Exposure to these materials has also
27 created a reasonable fear of contracting the diseases and illnesses identified herein.

28 4.5 The unwanted entrance of radioactive and other hazardous materials referred to

1 herein into Plaintiffs' bodies have caused various physical injuries, general pain and
2 suffering, physical and mental pain and suffering, and illness.

3 4.6 Certain defendants undertook many of the services vital to Richland and
4 surrounding communities including, but not limited to, the fire department, police
5 department, city government, schools, construction and infrastructure, and medical facilities
6 and doctors.

7 4.7 Defendants have been in the business of manufacturing, processing, storing,
8 disposing, releasing and otherwise handling radioactive and non-radioactive toxic materials
9 at times relevant to this lawsuit.

10 4.8 Defendants have failed to comply with many requirements, statutes and
11 regulations of the state of Washington and the federal government in the operation of the
12 Hanford facility, and otherwise have failed to thoroughly acquaint themselves with the latest
13 knowledge and technology associated with their activities referred to in this complaint.

14 4.9 Defendants have been aware during the aforementioned time periods of the fact
15 they were releasing radioactive and other hazardous materials into the air, waters, and
16 ground. Defendants failed and refused to take sufficient remedial measures to abate or
17 lessen the emissions, releases of the toxic and hazardous material, even though they were
18 aware of the significant health risks to the Plaintiffs associated with the releases in this case
19 and the general public.

20 4.10 Defendants failed and refused to conduct adequate monitoring of releases of
21 radioactive substances from Hanford operations including, but not limited to, release from
22 the reactors, the separations facilities, other processing plants, storage basins, underground
23 tanks, spills and leaks. This failure prevented the general public, government agencies, and
24 Plaintiffs from obtaining accurate information regarding the type and extent of radiation
25 released from Hanford that they were exposed to and the concomitant health risks.

26 4.11 Defendants failed and refused to conduct adequate offsite monitoring of the air,
27 water, and ground to ascertain the amount of radioactive materials present in all geographic
28 areas wherein people, crops and livestock were exposed, thereby preventing the general

1 public, relevant government agencies, and the Plaintiffs of the ability to know the extent of
2 their exposure and the concomitant health risks they faced from such exposure.

3 4.12 Defendants failed and refused to monitor the dose of radiation and other
4 hazardous materials to persons who Defendants knew, or should have known, were exposed
5 thereby depriving those persons of information regarding the health risks that they faced and
6 resulting in Plaintiffs being prevented by the Defendants from minimizing their health risks.

7 4.13 Defendants' failure to monitor releases, to monitor offsite contamination and to
8 monitor the doses of radiation received by Plaintiffs and others prevented Plaintiffs from
9 being able to accurately measure the dose of radiation that they received. Such failures on the
10 part of the Defendants have necessitated both public and private dose reconstruction projects
11 to attempt to ascertain the amount of radiation released from Hanford and the concomitant
12 doses and health risks received by the Plaintiffs and other members of the public.

13 4.14 The actions of the Defendants described in this Complaint were designed to
14 (and did) deprive Plaintiffs and others of accurate information regarding the dangers they
15 were exposed to.

16 4.15 Defendants and each of them have withheld from the general public and
17 Plaintiffs the fact of and extent to which there have been emissions from Hanford, and, in
18 some instances, purposely deceived the public regarding both the fact of the emissions and
19 the adverse health effects which were caused by those emissions.

20 4.16 Defendants' failure to notify Plaintiffs of the health risks of the emissions and
21 the amount of radiation they were exposed to resulted in Plaintiffs being deprived of
22 information of life and death importance to them and deprived Plaintiffs of an opportunity to
23 limit their exposure to the hazardous emissions. Plaintiffs could not have reasonably
24 determined the cause or extent of their injuries until recently, and were deprived of an
25 opportunity to seek early medical examinations which could have resulted in early detection
26 of diseases (such as cancers) at more successfully treatable stages.

27 4.17 The failure of Defendants to operate Hanford in a safe manner was the
28 proximate cause of Plaintiffs' injuries.

V. CLASS & INDIVIDUAL CLAIMS FOR RELIEF

CAUSES OF ACTION ARISING UNDER THE CONSTITUTION

**FIRST CAUSE OF ACTION: VIOLATION OF THE SUBSTANTIVE DUE
PROCESS RIGHT TO BODILY INTEGRITY**

5.1 Paragraphs 1 through 5.1 are hereby realleged and incorporated by reference.

5.2 From 1944-1959, Defendants DuPont and General Electric performed government functions in Richland, Washington, and thus were instrumentalities of the State of Washington and/or the United States of America.

5.3 By their conduct of knowingly exposing and using humans as repositories for their radionuclides without their knowledge or consent, Defendants have deprived Plaintiffs of their constitutional right to bodily integrity, protected by the Fifth and Fourteenth Amendments of the United States Constitution and as that right has been developed and characterized in the courts, in violation of 42 U.S.C. § 1983 or actionable under *Bivens*.

**SECOND CAUSE OF ACTION: VIOLATION OF THE SUBSTANTIVE DUE
PROCESS RIGHT TO ACCESS TO THE COURTS**

5.4 Plaintiffs reallege all preceding paragraphs.

5.5 Defendants failed to disclose the radioactive and other hazardous emissions and health risks associated with living in Richland, working at the plant, residing in the vicinity of Hanford. Over the 50-plus years of Defendants' deception much evidence has been lost or destroyed, witnesses have died or are otherwise unavailable, and memories have faded. Consequently, Plaintiffs' claims have been substantially compromised by Defendants' conduct in violation of Plaintiffs' constitutional guarantees.

THIRD CAUSE OF ACTION: PROCEDURAL DUE PROCESS VIOLATION

5.6 Plaintiffs reallege all preceding paragraphs.

5.7 By their conduct, Defendants deprived Plaintiffs of their constitutional right to

1 access to the courts, protected by the Fifth and Fourteenth Amendments of the United States
2 Constitution, in violation of 42 U.S.C. § 1983 or otherwise actionable under *Bivens*. In
3 particular, Defendants active concealment of the known dangers posed by the plutonium
4 production process at Hanford, the emissions, releases, and leaks of radioactive and other
5 hazardous materials, and the ongoing secret studies conducted using Plaintiffs or their property
6 as subjects for the last 50 years, have substantially jeopardized the evidence needed for
7 Plaintiffs' claims and usurped their opportunity to be heard. Individuals have died, people have
8 moved from the region, reports have been lost or destroyed, and memories have faded so
9 substantially that many claims will never be filed.

10 **FOURTH CAUSE OF ACTION: EQUAL PROTECTION VIOLATION**

11 5.8 Plaintiffs reallege all preceding paragraphs.

12 5.9 Defendants, by their conduct, deprived Plaintiffs of equal protection of the laws,
13 actionable under 42 U.S.C. § 1983. In particular, Defendants intentionally chose not to warn
14 the citizens they were obliged to protect, contractually and otherwise, of the fundamental health
15 risks posed by plutonium production and waste storage at Hanford. Private actors performing
16 a public function cannot, as a matter of law, arbitrarily deprive citizens of equal protection of
17 the laws.

18 19 **FIFTH CAUSE OF ACTION: CONSPIRACY TO VIOLATE THE CONSTITUTION 20 OF THE UNITED STATES**

21 5.10 Plaintiffs reallege all preceding paragraphs.

22 5.11 The United States, in concert with the Defendants and others, conspired to keep
23 the truth of Hanford and its danger a secret and made direct and systematic efforts to control
24 public opinion and knowledge of the dangers related to Hanford. The government's failure to
25 disclose and warn the public of the potential danger and their outright lies concerning the
26 public's safety, prohibited the public the opportunity to protect itself. Through the silence,
27 promises of safety and gainful employment, the government held the population captive to be
28 used as receptacles for radiation, without their knowledge or consent in direct violation of
guarantees to life, liberty, and property protected by the Constitution of the United States and

1 in contravention of the laws of humanity.

2
3 **SIXTH CAUSE OF ACTION: VIOLATION OF RIGHTS UNDER WASHINGTON**
4 **STATE CONSTITUTION**

5 5.12 Plaintiffs reallege all preceding paragraphs.

6 5.13 By Defendants' actions and omissions, they have violated the constitutional rights
7 of Washington citizens as guaranteed under the Washington Constitution, including, but not
8 limited to Article I, §§ 3, 7, 12, or 32. Under *Gunwall*, these rights may be more protective than
9 the federal constitutional guarantees. Thus, plaintiffs reallege the constitutional violations and
10 restate each one individually as a state constitutional violation. Damages will be proved at trial.

11
12 **CAUSES OF ACTION ARISING UNDER STATE LAW OR THE PRICE-**
13 **ANDERSON ACT**

14 **SEVENTH CAUSE OF ACTION: NEGLIGENCE**

15 5.14 Plaintiffs reallege all preceding paragraphs.

16 5.15 Defendants have breached numerous legal duties owed to Plaintiffs because they
17 negligently, carelessly, and recklessly generated, handled, stored, treated, disposed of, and/or
18 failed to control and contain radioactive and other hazardous materials. This has resulted in the
19 actual and continued releases of such substances into the surrounding inhabited environment,
20 and thereby subjected Plaintiffs to an unreasonable risk of harm and to injuries to their persons.

21 5.16 At all relevant times, Defendants were under contract with the United States
22 government.

23 5.17 At all relevant times, Defendants operated and were responsible for the operation
24 and maintenance of Hanford. Defendants accumulated, handled, processed, treated, stored,
25 buried and otherwise disposed of significant quantities of radioactive and other hazardous
26 materials on and off the Hanford Nuclear Reservation.

27 5.18 Defendants knew or should have known that the failure to control and contain the
28 radiation and hazardous materials properly would result in damage to workers, their families and
others who spent extended periods of time at Hanford, or downwind or downstream from

1 Hanford.

2 5.19 The gross contamination of Hanford by these Defendants was proximately caused
3 and its results aggravated by the negligent acts and/or omissions of Defendants, including, but
4 not limited to, the following:

5 5.19.1 Permitting the emissions, releases, and leaks of radiation and other
6 hazardous materials from Hanford to occur;

7 5.19.2 Failing to determine where and how the emissions, releases, and
8 leaks of radiation and other hazardous materials occurred and in failing to correct the problems
9 to prevent further leakage;

10 5.19.3 Failing to provide adequate containment of the radioactive and other
11 hazardous materials;

12 5.19.4 Failing to hold irradiated fuel in storage basins sufficient to permit
13 the iodine-131 to decay;

14 5.19.5 Failing to exercise ordinary and reasonable care to protect persons
15 and property subject to injury in nuclear incidents such as the releases from Hanford in
16 accordance with RCW 4.24.460;

17 5.19.6 Failing to warn or otherwise notify Plaintiffs in a timely and
18 adequate manner of such emissions, releases, and leaks of radiation and other hazardous
19 materials from Hanford, the extent of the contamination, and potential health effects thereof, and
20 because Defendants' duty to warn continues even after one is no longer exposed to the danger,
21 all Defendants continue to violate the law through their continued silence;

22 5.19.7 Failing to test the effects associated with the production process
23 breached their duty to resolve all basic, preventable scientific uncertainties prior to making and
24 marketing a product so as to ensure that it is safe;

25 5.19.8 Failing to take remedial action to contain and clean up such
26 contamination and to prevent recurring releases;

27 5.19.9 Failing to train and supervise their employees properly to ensure that
28 necessary safeguards and procedures would be followed in the event that any emissions,

1 releases, and leaks of radiation and other hazardous materials from Hanford occurred; and

2 5.19.10 Failing to diagnose and treat workers and civilian population who
3 were exposed to radioactive and/or hazardous materials or constituents.

4 5.19.11 Failing to warn of the dangers from the radiation emissions,
5 releases, and leaks has caused a substantial reduction in the Plaintiffs' life expectancy and
6 chance to survive.

7 5.20 As a direct and proximate result of the above negligence, Plaintiffs and members
8 of the class have been damaged. The damage includes, but is not limited to, loss of income, loss
9 of jobs, diminished ability to secure employment or insurance, emotional distress including fear
10 of cancer and other diseases, and contamination of property.

11
12 **EIGHTH CAUSE OF ACTION: STRICT LIABILITY FOR ABNORMALLY**
13 **DANGEROUS ACTIVITY**

14 5.21 Plaintiffs reallege all preceding paragraphs.

15 5.22 The receipt, accumulation, storage, handling and processing, together with the
16 burial and/or disposal of radioactive and/or ultra hazardous materials or constituents
17 constitute abnormally dangerous activities.

18 5.23 These abnormally dangerous activities necessarily involve serious risk of harm
19 to the person, land or chattels of another, and cannot be eliminated by the exercise of due
20 care, nor are they a matter of common usage.

21 5.24 Defendants are therefore strictly liable to Plaintiffs and members of the class
22 for all damages which have resulted and will result from the Defendants' activities at
23 Hanford.

24 5.25 As a direct and proximate result of the Defendants' abnormally dangerous
25 enterprise and their resulting failure to contain radioactive and/or hazardous materials or
26 constituents, Plaintiffs and class members have been damaged.

27
28 **NINTH CAUSE OF ACTION: TRESPASS**

1 5.26 Plaintiffs reallege all preceding paragraphs.

2 5.27 Defendants have trespassed through unlawful and wrongful entry and damage
3 to Plaintiffs' land by depositing airborne particles of radiation and other hazardous materials
4 on the Plaintiffs' properties without their permission or invitation. This trespass has caused
5 actual and substantial damage to the Plaintiffs' properties, and has interfered with the
6 Plaintiffs' exclusive possession of their properties. This trespass is ongoing.

7 5.28 Defendants have trespassed through unlawful and wrongful entry and damage
8 to Plaintiffs' bodies by depositing airborne particles of radiation and other hazardous
9 materials into Plaintiffs' bodies without their permission or invitation. This trespass has
10 caused actual and substantial damage to the Plaintiffs, and has interfered with the Plaintiffs'
11 exclusive right to control their person. This trespass is ongoing.

12 5.29 Defendants are liable for all damages proximately caused by its trespass. The
13 amount of these damages will be proved at trial.

14
15 **TENTH CAUSE OF ACTION: NUISANCE**

16 5.30 Plaintiffs reallege all preceding paragraphs.

17 5.31 Defendants, by depositing and by not removing airborne particles of
18 radionuclides and other hazardous materials upon the Plaintiffs' properties, proximately
19 caused an invasion of the Plaintiffs' interest in the private use and enjoyment of their lands,
20 which was intentional, unreasonable and actionable under law. These actions have created
21 both a common law private nuisance under Washington law and a statutory private nuisance
22 under RCW 7.48 *et seq.* This private nuisance is ongoing.

23 5.32 Defendants, by depositing and by not removing airborne particles of
24 radionuclides and other hazardous materials upon the Plaintiffs' properties in the geographic
25 vicinity of Hanford, proximately caused an unlawful and unreasonable interference with a
26 right common to the public. These actions have created a common law public nuisance under
27 RCW 7.48.130, RCW 7.48.210, and RCW 9.66.010. This public nuisance is ongoing.

28 5.33 Defendants have operated Hanford in violation of state and/or federal laws,

1 standards, and/or regulations, which conduct constitutes a nuisance per se. This nuisance is
2 ongoing.

3 5.34 Defendants are liable for all damages proximately caused by its nuisance. The
4 damages include, but are not limited to, exposure to radioactive and/or other hazardous
5 materials, loss of jobs, loss of income, diminished ability to secure employment and
6 insurance, and emotional distress including increased fear of cancer or other diseases, and
7 contamination of Plaintiffs' personal property. The amount of the damages will be proved at
8 trial.

9
10 **ELEVENTH CAUSE OF ACTION: MISREPRESENTATION AND FRAUD**

11 5.35 Plaintiffs reallege all preceding paragraphs.

12 5.36 Defendants at all times relevant hereto maintained a continuing economic
13 interest in the operation of Hanford.

14 5.37 Defendants failed, both negligently and intentionally, to disclose to Plaintiffs
15 material facts concerning the nature, magnitude, and effects of the exposure of Plaintiffs to
16 radioactive and/or other hazardous materials and constituents stored, handled, processes, or
17 disposed of at Hanford.

18 5.38 Defendants made affirmative representations of material facts concerning the
19 nature, quantity, and effects of the release of, and exposure to radioactive and/or other
20 hazardous materials or constituents stored, handled, processed, or disposed of at the Hanford.

21 5.39 Defendants concealed, misrepresented, and failed to disclose the truth with the
22 intention of creating a false impression of the actual facts in the minds of Plaintiffs and with
23 the intention that Plaintiffs would refrain from seeking redress or pursuing remedial action.

24 5.40 As a matter of policy, Defendants conspired to conceal and misrepresent the
25 true conditions at Hanford and the effects thereof.

26 5.41 Plaintiffs reasonably believed Defendants' misrepresentations and reasonably
27 relied upon them in refraining until the present from seeking redress or taking precautions.

28 5.42 As a further result of Defendants' deception and fraud, Plaintiffs and other

1 members of the class have suffered other damage including, but not limited to, exposure to
2 radioactive and/or hazardous materials, loss of income, loss of jobs, diminished ability to
3 secure employment and insurance, and emotional distress including, but not limited to,
4 increased fear of cancer or other diseases, and contamination of Plaintiffs' personal property.
5 These damages will be proved at trial.

6
7 **TWELFTH CAUSE OF ACTION: OUTRAGE**

8 5.43 Plaintiffs reallege all preceding paragraphs.

9 5.44 Defendants actions and omissions in the operation of Hanford were so reckless,
10 wanton, intentional and immoral, as to compel a reasonable person in the community to
11 declare the same as atrocious, beyond decency, and utterly intolerable in a civilized society
12 so as to constitute outrageous conduct and/or intentional infliction of emotional distress to
13 the plaintiffs and the communities downwind from Hanford.

14 5.45 As a result of the Defendants' outrageous conduct, Plaintiffs have suffered
15 physical injuries, general pain and suffering and severe physical and mental pain and
16 suffering as set forth in this complaint in amounts to be proven at trial.

17
18 **THIRTEENTH CAUSE OF ACTION:**
19 **NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS**

20 5.46 Plaintiffs reallege all preceding paragraphs.

21 5.47 As a result of Defendants' negligence and misconduct in releasing radioactive
22 and non-radioactive hazardous materials from Hanford, Plaintiffs have suffered severe
23 physical injury, general pain and suffering and severe emotional distress, including but not
24 limited to fear of cancer and/or additional cancers.

25 5.48 Defendants' negligent infliction of emotional distress caused injuries to
26 plaintiffs for which they seek damages as described herein and will be proved at trial.

27
28 **FOURTEENTH CAUSE OF ACTION: ASSAULT**

1 5.49 Plaintiffs reallege all preceding paragraphs.

2 5.50 Defendants have committed an assault by the continued threat of release of
3 radiation into the environment inhabited by Plaintiffs.

4 5.51 As a direct and proximate result of Defendants' assault, Plaintiffs and members
5 of the class have been damaged. The damage includes, but is not limited to, loss of income,
6 loss of jobs, diminished ability to secure employment or insurance, personal injuries, pain
7 and suffering, emotional distress including fear of cancer and other diseases, and
8 contamination of property. These damages will be proved at trial.

9
10 **FIFTEENTH CAUSE OF ACTION: BATTERY**

11 5.52 Plaintiffs reallege all preceding paragraphs.

12 5.53 Defendants have committed a battery by their release of radiation and other
13 hazardous materials into the environment inhabited by Plaintiffs knowing that such
14 radioactive elements would have an effect upon Plaintiffs and become lodged in their bodies,
15 continuing to detrimentally impact Plaintiffs.

16 5.54 As a direct and proximate result of Defendants' battery, Plaintiffs and members
17 of the class have been damaged. The damage includes, but is not limited to, loss of income,
18 loss of jobs, diminished ability to secure employment or insurance, personal injuries, pain
19 and suffering, emotional distress including fear of cancer and other diseases, and
20 contamination of property. These damages will be proved at trial.

21
22 **SIXTEENTH CAUSE OF ACTION: BREACH OF CONTRACT**

23 5.55 Plaintiffs reallege all preceding paragraphs.

24 5.56 The contract between Defendants and the United States government (through
25 the Atomic Energy Commission and its successor agencies) required the Defendants to take
26 all reasonable steps necessary to protect the health and safety of employees and members of
27 the public.

28 5.57 Defendants were also required by the contract to comply with all applicable

1 laws, regulations and ordinances of the United States and of the State, territory and political
2 subdivision in which the work under said contract was to be performed.

3 5.58 Defendants willfully and repeatedly breached the terms of their contract with
4 the United States government to the detriment of Plaintiffs and other members of the class,
5 resulting in exposure to radioactive and other hazardous materials in excess of the limits
6 established by the federal government and the State of Washington.

7 5.59 As a direct and proximate result of the Defendants' breach of their contract
8 with the United States government, Plaintiffs and other members of the class, as third- party
9 beneficiaries to the contract, have been damaged. This damage includes, but is not limited
10 to, exposure to radioactive and/or other hazardous materials, loss of jobs, loss of income,
11 diminished ability to secure employment and insurance, and emotional distress including
12 increased fear of cancer or other diseases, and contamination of Plaintiffs' personal property.
13 Damages will be proved at trial.

14
15 **SEVENTEENTH CAUSE OF ACTION: UNJUST ENRICHMENT**

16 5.60 Plaintiffs reallege all preceding paragraphs.

17 5.61 By operating Hanford in a way that allowed radiation and other hazardous
18 materials to accumulate on Plaintiffs' property and in Plaintiffs' bodies, Defendants received
19 the following benefits: (1) Defendants were able to operate Hanford without having to
20 control dangerous emissions, releases, leaks, thus avoiding substantial pollution control
21 costs, and (2) they stored radiation and other hazardous materials on Plaintiffs' properties and
22 within Plaintiffs' bodies, thus avoiding the costs of collecting the radiation and other
23 hazardous materials and storing and/or disposing of the hazardous materials elsewhere.

24 5.62 Defendants obtained these benefits to the detriment of Plaintiffs.

25 5.63 Defendants enrichment at the expense of Plaintiffs was unjust. Plaintiffs
26 should be compensated for these unjust enrichments in an amount to be proved at trial.

27
28 **EIGHTEENTH CAUSE OF ACTION: BREACH OF FIDUCIARY DUTY**

1 5.64 Plaintiffs reallege all preceding paragraphs.

2 5.65 Defendants assumed a fiduciary responsibility for the local citizens. As a
3 direct and proximate result of the failure of Defendants to comply with their duties of care
4 and good faith, Plaintiffs and other members of the class have suffered damage including, but
5 not limited to, exposure to radioactive and/or hazardous materials, loss of income, loss of
6 jobs, diminished ability to secure employment and insurance, and emotional distress
7 including, but not limited to, increased fear of cancer or other diseases, and contamination of
8 Plaintiffs' personal property. Damages will be proved at trial.

9
10 **NINETEENTH CAUSE OF ACTION: CONCERT OF ACTION**

11 5.66 Plaintiffs reallege all preceding paragraphs.

12 5.67 Defendants and each of them conspired among themselves and with others and
13 agreed to hide, prevent, and otherwise conceal the true facts regarding the dangerousness of
14 the operation of Hanford from Plaintiffs and the public. Defendants in concert with one
15 another caused the release of the radioactive and other hazardous materials into the air,
16 water, and underground pathways causing the injuries complained of herein, while publicly
17 claiming that the Hanford operation was safe. Upon information and belief the Defendants
18 and each of them conspired with one another to prevent the true facts regarding the hazards
19 and potentially devastating health problems to plaintiffs and the public from being disclosed.

20 5.68 As a result of Defendants' actions, Plaintiffs were injured and seek damages
21 including, but not limited to exposure to radioactive and/or hazardous materials, loss of
22 income, loss of jobs, diminished ability to secure employment and insurance, and emotional
23 distress including, but not limited to, increased fear of cancer or other diseases, and
24 contamination of Plaintiffs' personal property. Damages will be proved at trial.

25
26 **TWENTIETH CAUSE OF ACTION: MEDICAL MONITORING**

27 5.69 Plaintiffs reallege all preceding paragraphs.

28 5.70 Defendants deliberately, knowingly and negligently exposed the Plaintiffs to

1 radiation and other known hazardous materials.

2 5.71 As a result, Plaintiffs have been significantly exposed to radiation and other
3 known hazardous materials.

4 5.72 Plaintiffs have an increased risk of contracting serious diseases as a result of
5 the exposure. Those diseases may include thyroid disease, cancer, and even death.

6 5.73 The increased risk of such diseases makes periodic medical examinations
7 reasonably necessary.

8 5.74 Monitoring and testing procedures exist that (1) can detect exposure to
9 radiation and other hazardous materials so that additional steps to minimize exposure may be
10 taken and (2) make early detection and treatment of serious latent diseases possible and
11 beneficial.

12 5.75 As a result of their actions and omissions, resulting in Plaintiffs' increased risk
13 of contracting disease, Defendants should be required to pay an amount to be established at
14 trial into a court-supervised fund to pay for prudent medical and biological monitoring for
15 Plaintiffs and the class.

16
17 **TWENTY-FIRST CAUSE OF ACTION: INCREASED RISK AND FEAR OF**
18 **DISEASE**

19 5.76 Plaintiffs reallege all preceding paragraphs.

20 5.77 Defendants' conduct has increased substantially the risk the Plaintiffs have in
21 contracting thyroid disease or cancer. The Defendants should compensate the Plaintiffs for
22 causing this anguish. Damages to be proved at trial.

23
24 **TWENTY-SECOND CAUSE OF ACTION: CIVIL CONSPIRACY**

25 5.78 Plaintiffs reallege all preceding paragraphs.

26 5.79 Defendants engaged, and continue to engage, in a civil conspiracy among
27 themselves, some or all of their sub-contractors, and other persons unknown to Plaintiffs, to
28 deprive Plaintiffs of their constitutional right to bodily integrity and access to the courts and

1 to keep secret the true facts concerning the operations at Hanford. The co-conspirators
2 engaged in acts that resulted in the intentional and illegal release of radioactive and non-
3 radioactive hazardous materials into the environment while, among other things, operating
4 under a veil of secrecy to prevent disclosure of their misconduct.

5 5.80 Every Defendants failure to act and inform the Plaintiffs of the true nature of
6 Hanford aided and abetted the others in the furtherance of the conspiracy.

7 5.81 As a result of Defendants' conspiracy, Plaintiffs and other class members have
8 been injured in their persons and property as described above and in amounts to be proven at
9 trial.

11 PUNITIVE DAMAGES

12 5.82 Plaintiffs reallege all preceding paragraphs.

13 5.83 Defendants' actions and omissions described above were made with conscious
14 disregard for the safety and rights of Plaintiffs and others that had a great probability of
15 causing substantial harm, and such acts and omissions by Defendants directly and
16 proximately caused the injuries to the Plaintiffs and other members of the class as
17 aforementioned, all for which Plaintiffs and the members of the class are entitled to the
18 amount of one hundred billion dollars (\$100,000,000,000) punitive damages, plus reasonable
19 attorneys' fees and expenses.

21 RIGHT TO AMEND COMPLAINT

22 Plaintiffs reserve the right to amend this complaint in the future pursuant to Fed. R.
23 Civ. P. 15 and 23.

25 DEMAND FOR TRIAL BY JURY

26 Plaintiffs demand a trial by jury on all issues.

DESIGNATION OF PLACE OF TRIAL

Plaintiffs request trial in Spokane or Yakima, Washington.

VI. PRAYER FOR RELIEF

Plaintiffs pray for the following relief:

6.1 A finding that this action should proceed as a class action under Fed. R. Civ. P. 23;

6.2 An award of actual damages for the injuries suffered to each of the Plaintiffs and class members in amounts to be proven at trial;

6.3 An award of damages for violating Plaintiffs' constitutional rights and the laws of humanity, in amounts to be proven at trial;

6.4 An award for compensatory damages for the loss of the Plaintiffs' rights to fully use and enjoy their properties; for any annoyance, irritation, and discomfort they have experienced as a result of Defendants' conduct; and for any other compensatory damages that may be shown, in amounts to be proven at trial;

6.5 An award for just compensation to the Plaintiffs for Defendants' unjust enrichment at their expense, in amounts to be proven at trial;

6.6 An award of punitive damages to Plaintiffs' reflecting Defendants' willful and wanton disregard of their constitutional rights, property rights, and safety, in amounts to be proven at trial;

6.7 A judgment declaring that the Defendants are liable, jointly and severally, to the Plaintiffs for all future costs they incur in removing the contamination on their Properties caused by Defendants' actions;

6.8 Declaratory and injunctive relief against each of the defendants in the form of an order directing the Defendants to abate the risks from the waste-storage operations at Hanford and to take all reasonable steps, including but not limited to, immediate and full public disclosure of all relevant information in their possession to correct the potentially explosive conditions or abate the ongoing release of radioactive and other hazardous

1 materials into the environment;

2 6.9 An order forbidding the Defendants and future Hanford contractors from
3 releasing radiation and/or other hazardous materials from Hanford;

4 6.10 Complete disclosure of all studies, reports, analyses, data, and compilation, and
5 other similar information within the possession, custody, or control of each Defendant
6 concerning or relating to the releases of radioactive and/or other hazardous materials into the
7 inhabited environment surrounding Hanford and/or the possible health effects of such
8 releases;

9 6.11 An admission of wrongdoing and a public apology for violating Plaintiffs'
10 constitutional rights;


11 6.12 The creation of a court-supervised fund, paid for by the Defendants in an
12 amount to be proven at trial, to pay for medical and biological monitoring for members of the
13 Medical Monitoring Class and the establishment of a scientific research fund devoted to
14 issues benefitting Plaintiffs;

15 6.13 An award to Plaintiffs for their costs of suit, and their attorneys' fees, in an
16 amount to be determined at trial;

17 6.14 An award of any other relief that this Court deems proper at law or equity.
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19 DATED: June 26th, 2000.

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